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MAY 18 2006

OFFICE OF PETITIONS

In re Application of Montagne	:	
Application No. 10/748,194	:	Decision on Petition
Filing Date: December 31, 2003	:	
Attorney Docket No. 033724-001	:	

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2006, to withdraw the holding of abandonment. The petition was filed and signed by applicant Montagne.

The petition is **granted**.

Facts:

A non-final Office action was mailed to the address of record on April 4, 2005.

The registered practitioners of record did not file a reply. Instead, the inventor mailed a reply to the Office action.

The reply filed by the inventor includes a certificate of mailing indicating the reply was mailed on September 30, 2003.

The date June 29, 2005, appears above the header on the reply.

The first four lines of the reply's header stated,

RE:	Application No. 10/748,194
Art Unit:	2167
Serial No.	PCT/US04/04532
Filing date:	13 February 2004

The current Art Unit for the application is 2166.

Application no. PCT/US04/04532 is an entirely separate application and the serial number for the instant application is not PCT/US04/04532.

The filing date for the instant application is December 31, 2003, and not February 13, 2004.

The Office received the reply on October 6, 2005.

Due to the errors in the reply's header, the reply was forwarded to PCT branch to be matched with application no. PCT/US04/04532.

As of December 1, 2005, the reply remained unmatched with the correct file. As a result, a Notice of Abandonment was mailed. The Notice of Abandonment stated a reply had not been received in response to the April 4, 2005 non-final Office action.

The reply was eventually matched with the instant application - 10/748,194.

The instant petition was filed on March 8, 2006.

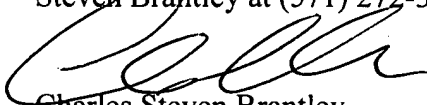
Discussion:

A reply and request for an extension of time were timely filed in response to the April 4, 2005 Office action. Based on all the facts and circumstances, the Office has determined the header contained sufficient information to determine the proper application number for the reply. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Although a copy of the instant decision is being mailed to applicant, a copy of future correspondence will not be mailed to applicant. Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33. If petitioner no longer wishes to be represented by any practitioners, a revocation of power of attorney and change of address should be filed.

Technology Center Art Unit 2166 will be informed of the instant decision. The examiner will review the paper filed on October 6, 2005 (Certificate of Mailing date of September 30, 2005) in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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